

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HARTFORD FIRE INSURANCE COMPANY as
subrogor of Lycee Francais De New York,

Plaintiff,

-against-

MAYRICH CONSTRUCTION CORP., LANGAN
ENGINEERING & ENVIRONMENTAL SERVICES,
INC., F.J. SCIAME CONSTRUCTION CO., INC.,
POLSHEK PARTNERSHIP, LLP & CANTOR
SEINUK GROUP, INC.,

Defendants.
----- X

07 Civ. 4084 (SHS) (AJP)

**POLSHEK PARTNERSHIP
LLP'S REPLY TO LANGAN
ENGINEERING &
ENVIRONMENTAL
SERVICES, INC.'S
CROSS-CLAIM**

Defendant Polshek Partnership, LLP ("Polshek"), by its attorneys Zetlin & De Chiara LLP, as and for its Reply to the Cross-claim of Defendant Langan Engineering & Environmental Services, Inc. ("Langan"), respectfully alleges and says as follows:

ANSWER TO LANGAN'S CROSS-CLAIM

1. Denies each and every allegation contained in Paragraph 7 of Langan's Answer to Cross-claim of Defendant Polshek with Cross-claim ("Langan's Cross-claim") to the extent they are directed at Polshek and denies knowledge or information sufficient to form a belief as to the truth of the balance of the allegations contained in Paragraph 7 of Langan's Cross-claim.

2. Denies each and every allegation contained in Paragraph 8 of Langan's Cross-claim.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The Court lacks subject matter jurisdiction over this controversy.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Langan's Cross-claim fails to state a claim upon which relief may be granted.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Langan's Cross-claim against Polshek is barred by Langan's contributory negligence.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Langan's Cross-claim against Polshek is barred by the applicable Statute of Limitations.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Langan's Cross-claim against Polshek is barred, in whole or in part, by payment, waiver, laches, estoppel and/or release.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Whatever damages Plaintiff may have sustained or may sustain, as alleged in the Cross-claim, all of which are denied by Polshek, were or will have been caused in whole or in part by the culpable conduct of Langan and/or other parties. The amount of damages recovered, if any, shall therefore be diminished in the proportion with the culpable conduct, attributable to Langan and/or such other parties bear to the culpable conduct which caused these alleged damages.

AS AND FOR AN SEVENTH AFFIRMATIVE DEFENSE

The damages alleged in Langan's Cross-claim against Polshek were caused or will be caused by the culpable conduct of some third person or persons over whom Polshek neither had nor exercised control.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

Langan's Cross-claim is barred because it lacks privity with Polshek or the functional equivalent thereof.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

Langan's Cross-claim is barred by the terms of Polshek's agreement for the Project.

WHEREFORE, Defendant Polshek demands judgment,

- (a) Dismissing Langan's Cross-claim in its entirety;
- (b) Awarding Polshek all its attorneys' fees, disbursements, and costs incurred in defending Langan's Cross-claim; and
- (c) Granting such other and further relief as to this Court seems just and proper.

Dated: New York, New York
September 10, 2007

ZETLIN & DE CHIARA LLP

By: 

Bill P. Chimos, Esq. (BC-9381)

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